

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Docket No. 2003-10370-DPW

UNITED STATES OF AMERICA *
*
V. *
*
JOHN MCCARTHY *

**JOHN MCCARTHY'S MOTION TO STAY EXECUTION OF SENTENCE
AND TO ALLOW FOR VOLUNTARY SELF-SURRENDER**

Now comes the Defendant, John McCarthy, in the above-numbered indictment and requests this Honorable Court, pursuant to 18 U.S.C.S. § 3143, to Stay the Execution of the Defendant's Sentence, if he is required to be taken into custody, and to allow him to voluntarily self-surrender to the institution designated by the Bureau of Prisons within six weeks.

The Defendant states in support for this request, the following:

1. The Defendant, John McCarthy, presents no significant or realistic risk of flight. The Defendant has been supervised without problem throughout the Pre-Trial phase of this case. The Defendant was allowed during the early winter of 2005, to travel and reside out-of-state in Florida for approximately a three month period. The Defendant returned when required to do so and has remained within the Massachusetts jurisdiction.
2. The Defendant, John McCarthy, has significant ties and roots in the Brookline, Massachusetts community. As stated in the Sentencing Memorandum and the Pre-Sentencing Report, the Defendant has resided in same apartment in Brookline, Massachusetts for virtually his entire life. He assists his 65 year old father, who suffers from rheumatoid arthritis, and his 99 year old grandfather, who suffers from Alzheimer's, on a weekly basis.

3. The Defendant does not pose any significant danger to the safety of any other person or to the community at large. The Defendant has accepted responsibility and tendered a timely Change of Plea in the above-captioned matter.

WHEREAS, for all of the above stated reasons, the Defendant, respectfully requests that this Honorable Court, in the event that the Court chooses to impose a term of custody rather than home detention or other supervised release, requests that this Court order and allow the Defendant to self-surrender at the Bureau of Prisons designated institution within six weeks from the date of the imposition of sentence.

Respectfully Submitted
JOHN MCCARTHY,
By His Attorney,

John T. Diamond, III
TORNEY, MAHONEY DIAMOND
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15 Foster Street
Quincy, MA 02169
BBO No: 555934
Tel: (617) 770-0000

Date: November 22, 2005

CERTIFICATE OF SERVICE

I, John T. Diamond, III, Esq., do hereby certify that a copy of the within:

1. Defendant's Motion to be Released on Present Terms of Recognizance Pending Sentencing;

has been sent in-hand, to:

Assistant U.S. Attorney, Rachel Hershfang,
U.S. Attorney's Office
John J. Moakley U.S. Courthouse, Suite 9200
One Courthouse Way
Boston, MA 02210

Judge Douglas P. Woodlock
John J. Moakley U.S. Courthouse
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Dated: